

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AIMEE POTTER,
individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

TARGET CORPORATION,

Defendant.

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: Case No. 1:21-cv-05496
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: Hon. Elaine E. Bucklo
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**DEFENDANT TARGET CORPORATION’S MOTION TO
COMPEL ARBITRATION, TRANSFER VENUE, OR DISMISS**

Defendant Target Corporation (“Target”), by and through its undersigned counsel, Blank Rome LLP, hereby moves this Court to enter an Order dismissing Plaintiff Aimee Potter’s (“Plaintiff”) *Class Action Complaint* (the “Complaint”) in favor of individual arbitration, staying the case pending arbitration, or transferring venue. In support of this Motion, Target states as follows:

1. Plaintiff filed her *Complaint* on September 10, 2021, in the Circuit Court of Cook County. *See* ECF No. 1-2. Target removed the action to this Court on October 15, 2021. Notice of Removal, ECF No. 1.

2. Target brought an *Unopposed Motion for Extension of Time to Answer or Otherwise Plead* on October 19, 2021. *See* ECF No. 7. The Court granted that Motion on October 21, 2021. *See* ECF No. 9. Target then brought a *Second Unopposed Motion for Extension of Time to Answer or Otherwise Plead* on November 15, 2021. *See* ECF No. 10. The Court granted

Targets' second unopposed motion on November 17, 2021, providing Target until December 20, 2021, to respond to the Complaint. *See* ECF No. 11.

3. Target now brings this Motion to Compel Arbitration, Transfer Venue or Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(3), and the Federal Arbitration Act, 9 U.S.C. §§ 1-14. In the alternative, Target moves to transfer venue to the District of Minnesota under 28 U.S.C. § 1404(a).

4. Plaintiff's Complaint alleges violations of the Illinois Biometric Information Privacy Act and arises out of her purported use of the virtual try-on ("VTO") feature available on Target's website and smartphone application, which Plaintiff erroneously alleges uses facial recognition technology.

5. On multiple occasions, Plaintiff agreed to Target's Terms and Conditions ("T&Cs") for accessing and using the VTO feature on both Target's website and through the Target smartphone application ("Target App"). The T&Cs require Plaintiff to arbitrate any claims against Target on an individual, non-class basis under Minnesota law.

6. Plaintiff also agreed should litigation proceed it would be filed exclusively in the U.S. District Court for the District of Minnesota. Thus, in the event this court does not compel individual arbitration in this case, Target requests venue be transferred to the District of Minnesota.

7. In support of this Motion, Target files herewith its Memorandum of Law in Support of its Motion to Compel Arbitration, Transfer Venue, or Dismiss, which is fully incorporated herein.

8. Target understands that the Motion to Compel Arbitration, Transfer Venue, or Dismiss will be opposed.

WHEREFORE, Defendant Target Corporation moves this Court for an Order compelling arbitration, transferring venue, or dismissal, and for all such other relief as the Court deems just and proper.

DATED: December 20, 2021

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